

1 RAYMOND M. WILLIAMS (Bar No. 164068)
2 raymond.williams@dlapiper.com
3 DLA PIPER LLP (US)
4 1650 Market Street, Suite 4900
5 Philadelphia, PA 19103
6 Tel: 215.656.3300
7 Fax: 215.656.3301

8 CHRISTOPHER M. YOUNG (Bar No. 163319)
9 christopher.young@dlapiper.com
10 DLA PIPER LLP (US)
11 401 B Street, Suite 1700
12 San Diego, CA 92101
13 Tel: 619.699.2700
14 Fax: 619.699.2701

15 LOREN H. BROWN
16 loren.brown@dlapiper.com
17 HEIDI LEVINE
18 heidi.levine@dlapiper.com
19 DLA PIPER LLP (US)
20 1251 Avenue of the Americas, 27th Floor
21 New York, NY 10020-1104
22 Tel: 212.335.4500
23 Fax: 212.335.4501

24 Attorneys for Defendant
25 NOVO NORDISK INC.

26 IN RE INCRETIN-BASED
27 THERAPIES PRODUCTS
28 LIABILITY LITIGATION

This Document Relates to All Cases

Case No. 3:13-MD-02452-AJB-MDD

29 DECLARATION OF HEIDI LEVINE
30 IN SUPPORT OF DEFENDANT
31 NOVO NORDISK INC.'S REPLY TO
32 PLAINTIFFS' OPPOSITION TO
33 NOVO'S MOTION TO DISQUALIFY
34 DR. G. ALEXANDER FLEMING AS
35 AN EXPERT WITNESS FOR
36 PLAINTIFFS AND STRIKE HIS
37 REPORT ON PREEMPTION

38 Judge: Hon. Anthony J. Battaglia
39 Ctrm: 3B
40 Hrg: March 12, 2015
41 Time: 2:00 pm

1 I, Heidi Levine, declare as follows:

2 1. I am an attorney with DLA Piper LLP (US), counsel for Defendant
 3 Novo Nordisk Inc. (“Novo”). I am licensed to practice in the State of New York. I
 4 have personal knowledge of the facts set forth herein. I submit this declaration in
 5 support of Novo’s Reply to Plaintiffs’ Opposition to Novo’s Motion to Disqualify
 6 Dr. G. Alexander Fleming as an Expert Witness for Plaintiffs and Strike his Expert
 7 Report on Preemption (“Disqualifying Motion”).

8 2. Attached as Exhibit 34 is a true and correct copy of bate stamped
 9 documents NNI-Fleming-00000001, NNI-Fleming-00000005, and NNI-Fleming-
 10 00000011. These documents are spreadsheets that were provided to me by Novo
 11 and contain the amounts paid to Dr. Fleming and his consulting firm, Kinexum,
 12 since 2001. These records were maintained by Novo in its regular course of
 13 business.

14 3. Attached as Exhibit 35 is a true and correct copy of the unpublished
 15 case *Novartis AG v. Apotex Inc.*, No. CIV.A. 09-5614 PGS, 2011 WL 691594
 16 (D.N.J. Jan. 24, 2011).

17 4. Attached as Exhibit 36 is a true and correct copy of the unpublished
 18 case *Bone Care Int’l, LLC v. Pentech Pharmas., Inc.*, No. 08 C 1083, 2009 WL
 19 249386 (N.D. Ill. Feb. 2, 2009).

20 5. Attached as Exhibit 37 is a true and correct copy of the unpublished
 21 case *In re Androgel Antitrust Litig.*, No. 1:09-MD-2084-TWT, 2011 WL 1882516
 22 (N.D. Ga. May 16, 2011).

23 6. Attached as Exhibit 38 is a true and correct copy of the unpublished
 24 case *Demouchette v. Dart*, No. 09 C 6016, 2012 WL 472917, at *4 (N.D. Ill. Feb.
 25 10, 2012).

26 ////

27 ////

28 ////

1 I declare under penalty of perjury under the laws of the United States that
2 the foregoing is true and correct.

3 Executed on February 18, 2015 in the State of New York.

4 
5

6 Heidi Levine
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

EXHIBITS

	<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
3	34	Bates stamped document NNI-Fleming-00000001, NNI-Fleming-00000005, and NNI-Fleming-00000011[FILED UNDER SEAL]	3-15
4	35	Unpublished case <i>Novartis AG v. Apotex Inc.</i> , No. CIV.A. 09-5614 PGS, 2011 WL 691594 (D.N.J. Jan. 24, 2011)	16-18
5	36	Unpublished case <i>Bone Care Int'l, LLC v. Pentech Pharms., Inc.</i> , No. 08 C 1083, 2009 WL 249386 (N.D. Ill. Feb. 2, 2009)	19-22
6	37	<i>In re Androgel Antitrust Litig.</i> , No. 1:09-MD-2084-TWT, 2011 WL 1882516 (N.D. Ga. May 16, 2011).	23-26
7	38	<i>Demouchette v. Dart</i> , No. 09 C 6016, 2012 WL 472917, at *4 (N.D. Ill. Feb. 10, 2012)	27-29
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			